IN THE

Supreme Court of the United States

October Term, 1975

No. 74-1573

INTERNATIONAL UNION, UNITED MINE WORKERS OF AMERICA; DISTRICT 2, UNITED MINE WORKERS OF AMERICA; AND LOCAL NO. 998, UNITED MINE WORKERS OF AMERICA,

Petitioners,

v.

ISLAND CREEK COAL COMPANY,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Third Circuit

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PETITION FOR REHEARING

The petitioners herein respectfully move this Court (1) to vacate its denial of the petition for a writ of certiorari and (2) to hold consideration of the petition in abeyance pending disposition of *Buffalo Forge Co.* v. *Steelworkers,* No.

75-339. As grounds for this motion, petitioners state the following:

> THIS COURT HAS NOW GRANTED CERTIORARI IN BUFFALO FORGE CO. v. STEELWORKERS, NO. 75-339, TO CONSIDER SUBSTANTIALLY THE SAME QUESTION PRESENTED BY THE PETITION FOR WRIT OF CERTIORARI HEREIN.

On October 6, 1975, this Court denied the petition for a writ of certiorari in the instant case, with Mr. Justice Douglas and Mr. Justice Stewart noting that they would grant the requested writ. However, on October 20, 1975, this Court granted certiorari in No. 75-339, *Buffalo Forge Co.* v. *Steelworkers,* to consider substantially the same question presented by the petition herein.

In *Buffalo Forge,* the Second Circuit considered the question of whether a federal district court can issue a back-to-work injunction, "if a union enters into a collective bargaining agreement establishing a mandatory arbitration procedure and including a no-strike clause" and then honors "another union's" picket line. 517 F.2d at 1208. The Second Circuit held that the Norris-LaGuardia Act prohibited injunctive relief, and this Court has granted certiorari to review that holding. Similarly, the petition in the instant case presents the question of whether a federal district court can issue a back-to-work injunction, "if a union enters into a collective bargaining agreement establishing a mandatory arbitration procedure [but not a no-strike clause] and then engages in a work stoppage solely out of deference to a foreign picket line." Petition, p. 2. The court below held that the Norris-LaGuardia Act did not prohibit injunctive relief.

Petitioners do not ask this Court to immediately grant certiorari and hear this case simultaneously with *Buffalo Forge.* They ask only that their petition be held in abey-

ance pending disposition of another case presenting substantially the same issue, and then dealt with in light of that disposition, in line with the usual practice of this Court.

CONCLUSION

For the reasons set forth above, petitioners pray that this Court vacate its denial of the petition for a writ of certiorari and hold consideration of the petition in abeyance pending disposition of No. 75-339.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

As attorney for the petitioners, I hereby certify that this petition for rehearing is presented in good faith and not for delay, and is restricted to the grounds specified in Rule 58(2).

Attorney for Petitioners.